

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**Jeffrey YING**

**Serial No.: 10/772,100**

**Filed: February 4, 2004**

**For: WIRELESS POINT-OF-SALE  
TRANSACTION SYSTEM AND  
METHOD**

)  
) **Customer No.: 29000**

) **Confirmation No.: 4867**

) **Group Art Unit: 3687**

) **Examiner: Ade, Oger Garcia**

) **Office Action mailed:**

) September 29, 2009  
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**[PROPOSED] AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION  
PURSUANT TO 37 C.F.R. 1.116**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is responsive to the final Office Action dated September 29, 2009.

Claims 63 – 85 are pending and presently stand rejected as allegedly anticipated under 35 U.S.C. 102(e) by Khan et al. (US 2004/0029569 A1) or under 35 USC 103(a) as obvious over Khan in view of Stadelmann (US 6,415,156). On June 4, 2009, Applicant filed an amendment and response that was believed to overcome the rejection of these same references. However, the claims continued to be rejected on the same basis in the final Office Action of September 29, 2009.

The prior amendment modified independent claim 63 to recite "automatically detecting, at a local wireless station affiliated with a point-of-sale system, the transient presence of a specific mobile wireless cellular device within proximity of the wireless station," and "in response to detecting the specific wireless cellular device, automatically initiating targeted radio frequency (RF) communication from the point-of-sale system addressed to the specific detected to the wireless cellular device via the local wireless station...." As pointed out in the response, Khan's wireless station (referred to as "MicroAdapter") does not automatically detect a specific wireless cellular device, but rather responds to a communication initiated by a user located "within a short range, for example about 3 meters," using infra-red, Bluetooth signals or 802.11 protocols. (See Khan at ¶¶ 32, 50, 74, 80)

Nonetheless, it appears that the final Office Action interprets that Khan's wireless station (MicroAdapter) performs the step of "automatically detecting ... the transient presence of a specific mobile wireless cellular device..." because it may, in some embodiments, detect the presence of an RF proximity card. (9/29/09 Office Action, pp. 7-8) However, an RF proximity card (which may be, e.g., a smart card) generally operates in the range of only a few inches (see ISO 14443), and does not involve cellular RF communications. The Office Action also variously cites to paragraphs 63, 58 and 121 of Khan (e.g., in connection with claim 73). While these sections of Khan indicate that the wireless station may separately communicate to a back-end merchant using cellular channels, they do not teach or suggest that the MicroAdapter can detect the transient presence of a specific mobile wireless cellular device using cellular frequencies. Rather, the MicroAdapter clearly uses other different techniques that are

short range in nature (such as IR, Bluetooth or 802.11) to communicate with a portable device, in response to a communication initiated by the user.

Without acquiescence in the grounds of rejection and without prejudice to pursue the original claimed subject matter at a later time (by continuation application or otherwise), Applicant proposes a further amendment to claim 63 herein to clarify the subject matter being claimed. It is respectfully submitted that claim 63, as amended, would be allowable over Khan and the other art of record. The Examiner is respectfully requested to enter the amendment herein to expedite examination and resolution of the instant application. Reconsideration of the grounds of rejection in view of the claim amendments.

Accordingly, please amend this application as shown herein. A summary of the status of the claims appears below.

**Summary of Claims**

Pending:	63 – 85
Amended:	63
Canceled:	1 – 43
Withdrawn:	44 – 62
Unchanged:	64 – 85
New:	None

**Amendments to the Claims** are reflected in the listing of claims which begins on page 3 of this paper.

**Remarks** begin on page 11 of this paper.